

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF NEW YORK**

CONSTITUTION PIPELINE  
COMPANY, LLC

Plaintiff,

v.

A PERMANENT EASEMENT FOR  
1.01 ACRES AND TEMPORARY  
EASEMENTS FOR 0.76 ACRES, IN  
MASONVILLE, DELAWARE COUNTY,  
NEW YORK, TAX PARCEL  
NUMBER 160.-2-9,  
FREDERICK RICE, et al.

Defendants.

CIVIL ACTION

Case No. 3:14-cv-02017-NAM-RFT

**Electronically Filed**

**ORDER**

AND NOW, this 19<sup>th</sup> day of February, 2015, upon consideration of Plaintiff's Omnibus Motion for Preliminary Injunction for Possession of Rights of Way by February 16, 2015 Pursuant to the Natural Gas Act and Federal Rules of Civil Procedure 71.1 and 65, and the documents and arguments submitted in reference thereto, the Motion is hereby GRANTED and:

(a) Upon filing the bond required below, beginning February 16, 2015, Plaintiff Constitution Pipeline Company, LLC ("Constitution") is granted access to, possession of and entry to the following Rights of Way:

1. A permanent right of way and easement, containing 1.01 acres, as described as "Area of Permanent Right of Way" in Exhibit A attached hereto, for the purpose of constructing, operating, maintaining, altering, repairing, changing the size of, replacing and removing a pipeline and all related equipment and appurtenances thereto (including but not limited to meters, fittings, tie-overs, valves, cathodic protection equipment and launchers and receivers) for the transportation of natural gas, or its byproducts, and other substances as approved by the Federal Energy Regulatory Commission pursuant to the Natural Gas Act and the Order of the Federal Energy Regulatory Commission dated December 2, 2014,

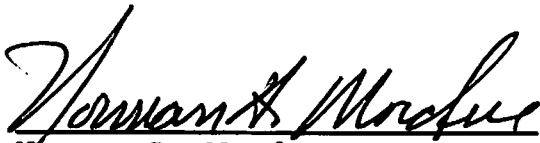
Docket Nos. CP13-499-000 and CP13-502-000, 149 FERC ¶ 61,199 (2014); together with all rights and benefits necessary or convenient for the full enjoyment or use of the right of way and easement. Defendants shall have a right of ingress and egress across the permanent right of way, but Defendants shall not build any permanent structures on said permanent right of way or any part thereof, shall not change the grade of said permanent right of way, or any part thereof, shall not plant trees on said permanent right of way, or any part thereof, or use said permanent right of way or any part thereof for a road, or use said permanent right of way or any part thereof in such a way as to interfere with Plaintiff's immediate and unimpeded access to said permanent right of way, or otherwise interfere with Plaintiff's lawful exercise of any of the rights herein granted without first having obtained Plaintiff's approval in writing, and Defendants will not permit others to do any of said acts without first having obtained Plaintiff's approval in writing, except that the landowner may construct a single driveway that crosses the permanent right of way perpendicularly after providing reasonable notice to Plaintiff provided that Defendants do not excavate or change the grade of the permanent right of way during construction of said driveway. Plaintiff shall have the right to cut the driveway if necessary to access the pipeline, but will restore the driveway to its original condition. Within the permanent right of way, Plaintiff shall also have the right from time to time at no additional cost to Defendants to cut and remove all trees including trees considered as a growing crop, all undergrowth and any other obstructions that may injure, endanger or interfere with the construction and use of said pipeline and all related equipment and appurtenances thereto.

2. Temporary easements of 0.76 acres, as described as "Area of Temporary Workspace" and "Area of Additional Temporary Workspace" in Exhibit A attached hereto, for use during the pipeline construction and restoration period only for the purpose of ingress, egress and regress and to enter upon, clear off and use for construction and all activities required by the Order of the Federal Energy Regulatory Commission dated December 2, 2014, Docket Nos. CP13-499-000 and CP13-502-000, 149 FERC ¶ 61,199 (2014).

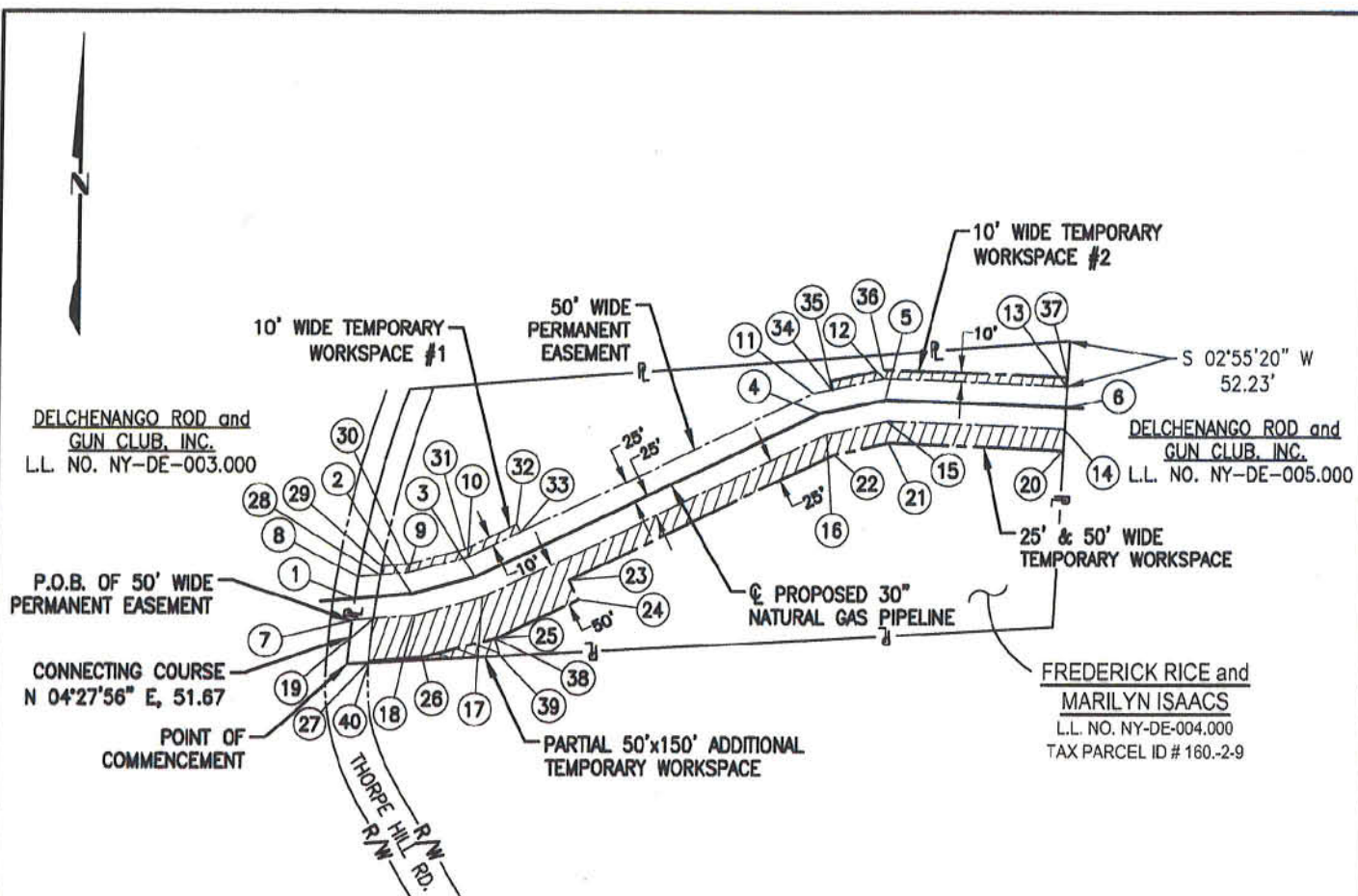
(b) Constitution shall post a bond in the amount of \$32,000.00 as security for the payment of just compensation to Defendants.

(c) Constitution shall record this Order in the County Clerk's Office of Delaware County, New York.

IT IS SO ORDERED.

  
**Norman A. Mordue**  
**Senior U.S. District Judge**

**EXHIBIT A**



## NOTES:

1. BEARINGS SHOWN ARE BASED ON NAD 83, ZONE 18N.

2. LENGTH OF PIPELINE . . . . . 878.18'

AREA OF PERMANENT RIGHT OF WAY . . . . . 1.01 AC.

AREA OF TEMPORARY WORKSPACE . . . . . 0.73 AC.

AREA OF ADDITIONAL TEMPORARY WORKSPACE . . . . . 0.03 AC.

## 3. ROADS

WE HAVE NOT DETERMINED THE FEE OWNERSHIP OF THE ROADS SHOWN, AND FOR THE PURPOSES OF THIS EXHIBIT HAVE ASSUMED THAT ADJOINING LANDOWNERS RETAIN AN INTEREST IN THE PROPERTY SUBJECT TO THE RIGHT OF WAY OF ALL ROADS SHOWN OTHER THAN INTERSTATE HIGHWAYS.


THE INFORMATION SHOWN ON THIS DRAWING IS FROM FIELD SURVEY PERFORMED BY CONSTITUTION PIPELINE COMPANY, LLC FOR THE SOLE PURPOSE OF CREATING A RIGHT OF WAY ACQUISITION AND REPRESENTS THE CONDITIONS AS THEY EXIST ON THE GROUND AS OF THE SURVEY.

NYSPLS LIC. NO. 050820  
DONALD P. SCHELL  
MASER CONSULTING P.A.

DATE:

9/29/14

0 200 400 600  
SCALE IN FEET

DRAWING NO. 26-03-10/0001-52		REFERENCE TITLE ALTERNATE SHEET		CONSTITUTION PIPELINE COMPANY, LLC PROPOSED 30" NATURAL GAS PIPELINE CROSSING PROPERTY OF FREDERICK RICE and MARILYN ISAACS TOWN OF MASONVILLE DELAWARE COUNTY, NEW YORK				 CONSTITUTION PIPELINE		
NO.	DATE	BY	REVISION DESCRIPTION	W.O. NO.	CHK.	APP.	DRAWN BY: GIE	DATE: 01-31-14	ISSUED FOR BID:	SCALE: 1"=200'
A	09-02-14	GIE	ISSUED FOR CONDEMNATION APPROVAL	1110415			CHECKED BY: JR	DATE: 09-22-14	ISSUED FOR CONSTRUCTION:	
B	09-23-14	GIE	REVISED - ISSUED FOR CONDEMNATION APPROVAL	1110415			APPROVED BY: DPS	DATE: 09-25-14	DRAWING NUMBER: 26-06-85/51.14-1-0	SHEET 1
0	09-25-14	GIE	APPROVED	1110415			WO: 1110415			OF 5



PROPOSED 30" NATURAL GAS PIPELINE

POINT#	BEARING	DISTANCE
1-2	N 85°07'45" E	69.04'
2-3	N 75°07'45" E	76.12'
3-4	N 64°25'07" E	443.55'
4-5	N 78°25'07" E	77.83'
5-6	S 87°39'13" E	211.64'

50' WIDE PERMANENT EASEMENT

POINT#	BEARING	DISTANCE
7-8	N 07°35'01" E	51.20'
8-9	N 85°07'45" E	58.54'
9-10	N 75°07'45" E	71.58'
10-11	N 64°25'07" E	444.27'
11-12	N 78°25'07" E	83.96'
12-13	S 87°39'13" E	214.94'
13-14	S 02°55'20" W	50.00'
14-15	N 87°39'13" W	208.33'
15-16	S 78°25'07" W	71.71'
16-17	S 64°25'07" W	442.82'
17-18	S 75°07'45" W	80.65'
18-7	S 85°07'45" W	74.33'

25' & 50' WIDE TEMPORARY WORKSPACE

POINT#	BEARING	DISTANCE
19-18	N 85°07'45" E	47.46'
18-17	N 75°07'45" E	80.65'
17-16	N 64°25'07" E	442.82'
16-15	N 78°25'07" E	71.71'
15-14	S 87°39'13" E	208.33'
14-20	S 02°55'20" W	25.00'
20-21	N 87°39'13" W	205.03'
21-22	S 78°25'07" W	65.59'
22-23	S 64°25'07" W	341.59'
23-24	S 25°34'53" E	25.00'
24-25	S 64°25'07" W	102.85'
25-26	S 75°07'45" W	89.71'
26-27	S 85°07'45" W	62.25'
27-19	N 07°03'32" E	51.09'

10' WIDE TEMPORARY WORKSPACE #1

POINT#	BEARING	DISTANCE
28-29	N 09°50'26" E	10.34'
29-30	N 85°07'45" E	29.12'
30-31	N 75°07'45" E	69.77'
31-32	N 64°25'07" E	65.94'
32-33	S 25°34'53" E	10.00'
33-10	S 64°25'07" W	66.87'
10-9	S 75°07'45" W	71.58'
9-28	S 85°07'45" W	32.62'

10' WIDE TEMPORARY WORKSPACE #2


POINT#	BEARING	DISTANCE
34-35	N 11°34'53" W	10.00'
35-36	N 78°25'07" E	63.62'
36-37	S 87°39'13" E	216.26'
37-13	S 02°55'20" W	10.00'
13-12	N 87°39'13" W	214.94'
12-34	S 78°25'07" W	62.40'

PARTIAL - 50'x150' ADDITIONAL TEMPORARY WORKSPACE

POINT#	BEARING	DISTANCE
27-26	N 85°07'45" E	62.25'
26-38	N 75°07'45" E	87.53'
38-39	S 14°52'15" E	21.77'
39-40	S 86°52'07" W	152.84'
40-27	N 07°03'32" E	1.62'

NYSPLS LIC. NO. 050820  
DONALD P. SCHEL  
MASER CONSULTING P.A.

DATE: 9/29/14

DRAWING NO. 26-06-70/0001-82		REFERENCE TITLE ALIGNMENT SHEET		CONSTITUTION PIPELINE COMPANY, LLC PROPOSED 30" NATURAL GAS PIPELINE CROSSING PROPERTY OF FREDERICK RICE and MARILYN ISAACS TOWN OF MASONVILLE DELAWARE COUNTY, NEW YORK				 CONSTITUTION PIPELINE		
NO.	DATE	BY	REVISION DESCRIPTION	W.O. NO.	CHK.	APP.	DRAWN BY: GIE	DATE: 01-31-14	ISSUED FOR BID:	SCALE: NONE
A	09-02-14	GIE	ISSUED FOR CONDEMNATION APPROVAL	1110415			CHECKED BY: JR	DATE: 09-22-14	ISSUED FOR CONSTRUCTION:	
B	09-23-14	GIE	REVISED - ISSUED FOR CONDEMNATION APPROVAL	1110415			APPROVED BY: DPS	DATE: 09-25-14	DRAWING NUMBER: 26-06-85/51.14-2-0	SHEET 2
O	09-25-14	GIE	APPROVED	1110415			WO: 1110415			OF 5

DESCRIPTION FOR THE PROPOSED 50' PERMANENT EASEMENT  
ACROSS PROPERTY OF  
FREDERICK RICE and MARILYN ISAACS  
TAX PARCEL ID # 160.-2-9  
DEED BOOK 651, PAGE 463  
LOCATED IN TOWN OF MASONVILLE  
DELAWARE COUNTY, NEW YORK

Commencing at a point in the West boundary line of the aforementioned parcel, said point being the most Southwesterly corner of said parcel of land and Point of Commencement; thence along the West boundary line, N 04°27'56" E a distance of 51.67 feet to a point, said point being in the centerline of Thorpe Hill Road and Point of Beginning;

Thence, N 07°35'01" E a distance of 51.20 feet to a point;

Thence, N 85°07'45" E a distance of 58.54 feet to a point;

Thence, N 75°07'45" E a distance of 71.58 feet to a point;

Thence, N 64°25'07" E a distance of 444.27 feet to a point;

Thence, N 78°25'07" E a distance of 83.96 feet to a point;

Thence, S 87°39'13" E a distance of 214.94 feet to a point located in the division line between the lands of Rice and Isaacs to the West and lands of Delchenango Rod and Gun Club, Inc. to the East;

Thence along said division line, S 02°55'20" W a distance of 50.00 feet to a point;

Thence, through the lands of Rice and Isaacs, N 87°39'13" W a distance of 208.33 feet to a point;

Thence, S 78°25'07" W a distance of 71.71 feet to a point;

Thence, S 64°25'07" W a distance of 442.82 feet to a point;

Thence, S 75°07'45" W a distance of 80.65 feet to a point;

Thence, S 85°07'45" W a distance of 74.33 feet to the Point of Beginning containing 1.01 acres.

All this is more fully shown on Drawing No. 26-06-85/51.14-1 thru 5 entitled "Constitution Pipeline Company, LLC - Property of Frederick Rice and Marilyn Isaacs - Located in Town of Masonville, - Delaware County, New York" dated September 25, 2014.



DATE:

NYSPLS LIC. NO. 050820  
DONALD P. SCHELL  
MASER CONSULTING P.A.

9/29/14

DRAWING NO. 26-05-10/0001-52		REFERENCE TITLE ALIGNMENT SHEET		CONSTITUTION PIPELINE COMPANY, LLC PROPOSED 30" NATURAL GAS PIPELINE CROSSING PROPERTY OF FREDERICK RICE and MARILYN ISAACS TOWN OF MASONVILLE DELAWARE COUNTY, NEW YORK				 CONSTITUTION PIPELINE		
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O	08-25-14	GIE	APPROVED	1110415			W/O: 1110415			OF 5



## DESCRIPTION FOR THE PROPOSED 25' &amp; 50' TEMPORARY WORKSPACE

Beginning at a point in the East Right of Way of Thorpe Hill Road, said point being located N 85°07'45" E a distance of 28.82 feet from the said Point of Beginning for the Proposed 50' Permanent Easement;

Thence, N 85°07'45" E a distance of 47.46 feet to a point;  
 Thence, N 75°07'45" E a distance of 80.65 feet to a point;  
 Thence, N 64°25'07" E a distance of 442.82 feet to a point;  
 Thence, N 78°25'07" E a distance of 71.71 feet to a point;  
 Thence, S 87°39'13" E a distance of 208.33 feet to a point in the division line between the lands of Rice and Isaacs to the West and the lands of Delchenango Rod and Gun Club, Inc. to the East;  
 Thence along said division line, S 02°55'20" W a distance of 25.00 feet to a point;  
 Thence through the lands of Rice and Isaacs, N 87°39'13" W a distance of 205.03 feet to a point;

Thence, S 78°25'07" W a distance of 65.59 feet to a point;  
 Thence, S 64°25'07" W a distance of 341.59 feet to a point;  
 Thence, S 25°34'53" E a distance of 25.00 feet to a point;  
 Thence, S 64°25'07" W a distance of 102.85 feet to a point;  
 Thence, S 75°07'45" W a distance of 89.71 feet to a point;  
 Thence, S 85°07'45" W a distance of 62.25 feet to a point in the West boundary line of the aforementioned parcel of land;

Thence along said boundary line, N 07°03'32" E a distance of 51.09 feet to the Point of Beginning containing 0.63 acres.

The 0.63 acres being part of the 0.73 acre total as shown on Sheet 1 of 5, "Area of Temporary Workspace".

## DESCRIPTION FOR THE PROPOSED 10' TEMPORARY WORKSPACE #1

Beginning at a point in the East Right of Way line of Thorpe Hill Road, said point being located N 33°20'49" E a distance of 63.56 feet from the Point of Beginning for the Proposed 50' Permanent Easement;

Thence, N 09°50'26" E a distance of 10.34 feet to a point;  
 Thence, N 85°07'45" E a distance of 29.12 feet to a point;  
 Thence, N 75°07'45" E a distance of 69.77 feet to a point;  
 Thence, N 64°25'07" E a distance of 65.94 feet to a point;  
 Thence, S 25°34'53" E a distance of 10.00 feet to a point;  
 Thence, S 64°25'07" W a distance of 66.87 feet to a point;  
 Thence, S 75°07'45" W a distance of 71.58 feet to a point;  
 Thence, S 85°07'45" W a distance of 32.62 feet to the Point of Beginning containing 0.04 acres.

The 0.04 acres being part of the 0.73 acre total as shown on Sheet 1 of 5, "Area of Temporary Workspace".



NYSPLS LIC. NO. 050820  
 DONALD P. SCHEL  
 MASER CONSULTING P.A.

DATE: 9/29/14

DRAWING NO. 26-06-85/0001-52		REFERENCE TITLE ALIGNMENT SHEET		CONSTITUTION PIPELINE COMPANY, LLC PROPOSED 30" NATURAL GAS PIPELINE CROSSING PROPERTY OF FREDERICK RICE and MARILYN ISAACS TOWN OF MASONVILLE DELAWARE COUNTY, NEW YORK						
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O	09-25-14	GIE	APPROVED	1110415			W.O.: 1110415			OF 5

## DESCRIPTION FOR THE PROPOSED 10' TEMPORARY WORKSPACE #2

Beginning at a point located N 64°09'35" E a distance of 620.52 feet from the Point of Beginning for the Proposed 50' Permanent Easement;

Thence, N 11°34'53" W a distance of 10.00 feet to a point;  
 Thence, N 78°25'07" E a distance of 63.62 feet to a point;  
 Thence, S 87°39'13" E a distance of 216.26 feet to a point;  
 Thence, S 02°55'20" W a distance of 10.00 feet to a point;  
 Thence, N 87°39'13" W a distance of 214.94 feet to a point;  
 Thence, S 78°25'07" W a distance of 62.40 feet to the Point of Beginning containing 0.06 acres.

The 0.06 acres being part of the 0.73 acre total as shown on Sheet 1 of 5, "Area of Temporary Workspace".

## DESCRIPTION FOR THE PROPOSED PARTIAL 50'x150' ADDITIONAL TEMPORARY WORKSPACE


Beginning at a point located S 25°06'19" E a distance of 53.29 feet from the Point of Beginning for the Proposed 50' Permanent Easement;

Thence, N 85°07'45" E a distance of 62.25 feet to a point;  
 Thence, N 75°07'45" E a distance of 87.53 feet to a point;  
 Thence, S 14°52'15" E a distance of 21.77 feet to a point;  
 Thence, S 86°52'07" W a distance of 152.84 feet to a point in the West boundary line of the aforementioned parcel of land;  
 Thence along said boundary line, N 07°03'32" E a distance of 1.62 feet to the Point of Beginning containing 0.03 acres.

NYSPLS LIC. NO. 050820  
 DONALD P. SCHEL  
 MASER CONSULTING P.A.



DATE: 2/29/14

DRAWING NO. 26-03-70/0001-52		REFERENCE TITLE ALIGNMENT SHEET		CONSTITUTION PIPELINE COMPANY, LLC PROPOSED 30" NATURAL GAS PIPELINE CROSSING PROPERTY OF FREDERICK RICE and MARILYN ISAACS TOWN OF MASONVILLE DELAWARE COUNTY, NEW YORK				 CONSTITUTION PIPELINE		
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O	09-25-14	GIE	APPROVED	1110415			VO: 1110415			OF 5